

Via EFS
Date of Deposit: December 17, 2009

Attorney Docket No.: 38820-534001US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Labrec *et al.* CONFIRMATION No.: 4087
SERIAL NUMBER : 10/677,092 EXAMINER: Sanza L. McClendon
FILING DATE : September 30, 2003 ART UNIT: 1796
FOR : INCREASING THERMAL CONDUCTIVITY OF HOST POLYMER USED WITH LASER
ENGRAVING METHODS AND COMPOSITIONS

Via EFS

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. 1.705(b)**

Applicants request reconsideration of patent term adjustment for the above-referenced application. Also enclosed is the two-hundred dollar fee as required by 37 C.F.R. § 1.18(e).

Applicants received a Notice of Allowance and Fees Due from the U.S. Patent and Trademark Office, mailed on September 21, 2009, which stated that the Patent Term Adjustment under 35 U.S.C. 154(b) to date is 18 days. This Request is submitted in view of the decision by the U.S. District Court decision in *Wyeth v. Dudas* (D.D.C. 2008) on September 30, 2008 as well as Applicants' duty under 37 C.F.R. 1.765.

By this paper, Applicants hereby petition the U.S. Patent and Trademark Office for reconsideration of the patent term adjustment calculation to **48 days** based on the facts provided herein.

This patent application was filed on September 30, 2003 and is therefore subject to the patent term adjustment procedures set forth in 37 C.F.R. §§ 1.702 to 1.705 for applications filed on or after May 29, 2000.

On December 23, 2003, the Office mailed a Notice to File Missing Parts.

On May 26, 2004, Applicants filed a Response to Notice to File Missing Parts. This Response was filed 64 days after the date that is three months after the mailing date of the Office Action. As shown in Exhibit A, the number of days of Patent Term Adjustment accounts for the 64 day Applicant delay.

On March 18, 2005, the Office mailed a Notice of Allowance. The Notice was mailed 108 days after the date that is fourteen-month requirement for mailing of the first action after the

03/26/2010 CKHLK 00000002 500311 10677092
01 FC:1455 200.00 00

Applicants have calculated the Patent Term Adjustment based on 37 C.F.R. 1.702(a), 37 C.F.R. 1.702(b) and 37 C.F.R. 1.704 through the mailing of the Notice of Allowance. The total calculation of Patent Term Adjustment is as follows: Office delay under 37 CFR 1.702(a) is $108+91+43 = 242$ days; Office Delay under 37 CFR 1.702(b) is 0 days; and Applicant delay under 37 CFR 1.704(c) is: $64+2+11+5+14+61+4+33 = 194$ days, adjustment is $242+0-194 = 48$ days.

Applicants reserve the right to request any further patent term adjustment based on the actual issue date of the instant application.

If the Office would like to discuss any aspect of this filing, the Office representative assigned to process this request is welcome to call the undersigned attorneys. No additional fees are believed to be due by submission of this paper. However, the Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 38820-534001US.

Respectfully submitted,

/Erica R. Carlson/
A. Jason Mirabito Reg. No. 28,161
Kyle Turley Reg. No.: 57,197
Erica R. Carlson, Reg. No. 58,032
Attorneys for Applicants
MINTZ, LEVIN, COHN, FERRIS
GLOVSKY and POPEO, P.C.
Address all written correspondence to
Customer no.: 30623
Tel: (617) 542-6000
Fax: (617) 542-2241

Date: December 17, 2009